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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,641	07/23/2003	Yoshinobu Hosoi	116401	6888

7590 08/01/2006

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EXAMINER
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CATTUNGAL, SANJAY

ART UNIT	PAPER NUMBER
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3768

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/624,641	<b>Applicant(s)</b> HOSOI, YOSHINOBU	
	<b>Examiner</b> Sanjay Cattungal	<b>Art Unit</b> 3768	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04/14/2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Action is in response to applicant's response received on 04/14/2006.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 5,805,268 to Hosoi et al. ("Hosoi") in view of U. S. Patent No. 2,707,901 to Thorburn ("Thorburn")**

4. Regarding **Claims 2, 4, 6, 8, and 9**, Hosoi (Figure 1 numeral 10 and Column 3 Lines 29-33) discloses an optometric apparatus that includes a pair of right and left lens chamber units in which various optical elements are electrically driven to be selectively disposed on to the test windows. (Col. 8 Line 64 through Col. 9 Line 6) discloses that the optometric device can perform the R/G, which inherently includes presenting green filter and an aperture as part of the various optical elements. Since all the various optical elements are electrically driven which are controlled by switch 36 Fig. 3, the system is electrically controlled and instructions are sent in through appropriate microprocessors in Fig. 4.

5. Hosoi does not expressly teach that one of the optical elements was an aperture.
6. Thorburn teaches the use of an aperture and a green filter as optical elements.  
(Col. 2 Lines 55-60)

7. It would have been obvious to one of ordinary skill in the art at the time of the invention to have an aperture as part of the optical elements for the red green tests, since aperture is basically a blank condition and having an aperture setting would serve as a blank condition. Also, repeating the tests is well known in the art as it yields better test data.

8. **Claims 3 and 7, are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 5,805,268 to Hosoi et al. ("Hosoi") in view of U. S. Patent No. 2,707,901 to Thorburn in further view of U. S. Patent No. 5,640,221 to Ishikawa et al. ("Ishikawa")**

9. Regarding **Claims 3 and 7**, Hosoi discloses all of the above limitations but does not expressly disclose a shielding plate as one of the elements on the rotating disk to be used to shield the test window.

10. Ishikawa column 7-line 48 teaches about using a shielding plate to shield from external light. It provides the basis of using a shielding plate to shield the test window. Hence it would be obvious to one skilled in the art at the time of invention to modify Hosoi to use a shielding plate to shield the test windows. Since shielding test windows would result in less noise and to prevent the test subject from viewing unwanted areas hence a more controlled test with better test results.

11. **Claims 5 and 10, are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 5,805,268 to Hosoi et al. ("Hosoi") in view of U. S. Patent No. 2,707,901 to Thorburn in further view of U. S. Patent No. 5,997,142 to Nakagawa ("Nakagawa")**

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12. Regarding **Claims 5 and 10**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hosoi et al. as applied to claim 1 above, and in view of Nakagawa. Claim 5 and 10 discloses a selection means for selecting between a r/g test with using a green filter and a conventional r/g test without using the green filter. Nakagawa (Column 7 Line 45) also teaches us of the "conventional test method" for the r/g test. Since a "conventional test method" is a standard procedure in the field of art it would be obvious to one skilled in the art at the time of invention to use a standard protocol in his invention.

### ***Response to Arguments***

13. Applicant's arguments have been fully considered but are deemed moot in view of the new ground(s) of rejection.

### ***Conclusion***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sanjay Cattungal whose telephone number is (571)272-1306. The examiner can normally be reached on 9:30 - 5:00 pm.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eleni Mantis-Mercader can be reached on (571)272-4740. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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